

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD JANUARY 20, 2009, AT 6:00 P.M., AT THE CITY COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

CALL TO ORDER AND ROLL CALL

Mayor Joens called the regular meeting to order at 6:00 p.m. Roll call was taken as follows:

COUNCIL MEMBERS PRESENT

Diane Joens, Mayor
Karen Pfeifer, Vice Mayor
James Chapman, Council Member
Tim Elinski, Council Member
Duane Kirby, Council Member
Linda Norman, Council Member

COUNCIL MEMBER ABSENT

Terence Pratt, Council Member

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Marianne Jiménez, City Clerk
Jason Little, Recreation Superintendant
Scott Mangarpan, Project Director
Richard Faust, Parks & Recreation Director
Jack Stapleton, Police Commander
Iris Dobler, Human Resources Manager
Charlie Scully, Planner

Rudy Rodriguez, Finance Director
Tim Costello, City Engineer
Jody Fanning, Police Chief
Mike Casson, Fire Chief
Kyla Allen, Executive Assistant
Steve Horton, City Attorney
Richard Serden, City Magistrate

PLEDGE OF ALLEGIANCE TO THE FLAG

Christopher Gosser of the ARC Angel Choir led the Pledge of Allegiance.

BRIEF SUMMARY OF CURRENT EVENTS BY MAYOR, CITY COUNCIL AND/OR CITY MANAGER--
THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON
ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS
PROPERLY NOTICED FOR LEGAL ACTION

Mr. Bartosh stated that the city had arranged for a group from Y.E.S. The Arc to provide landscaping labor assistance at Riverfront Park. There would be an Arizona Town Hall at noon on January 27th, on housing, at Yavapai College, for which the Council should have received invitations. The weekend fund raising event by the police department to assist Mary Stein, the child of one of our dispatchers, had raised over \$5,000. Hobo Joe's donated the food and its staff had donated their time to aid the event. The police department now accepted old prescription drugs, as part of a new drug abuse prevention program. The police department had reported that a large portion of the money stolen in a pre-Christmas

bank robbery had been recovered and the suspect was now in custody.

Council Member Kirby stated he had attended a meeting of the Area Agency on Ageing Advisory Council in Flagstaff the previous Wednesday. They were assessing the needs of seniors for such services as Meals on Wheels and food centers. The public was invited to the meeting of the Pine Shadows Residents Association, at 8 a.m., Saturday, February 7th. Council Members and candidates for city council would be in attendance.

Vice Mayor Pfeifer stated she, the Mayor, and Council Member Norman had attended the State Trust Annexation presentation. She attended a Mat Force meeting, and there would be a March on Meth later this spring. They also attended a transportation meeting.

Council Member Norman stated that the Northern Arizona Intergovernmental Public Transportation Authority would hold a meeting tomorrow in Sedona. This Thursday, the Senior Commission would meet at 4 p.m.

Mayor Joens stated she would be out of state January 22nd to January 29th. The Vice Mayor would be in charge along with the city manager. The Council met several weeks ago with the Design Review Board and the Planning & Zoning Commission. At that meeting the Council directed staff to consider combining the Board and Commission and present its plan to do so to the Council. The Verde River Basin Partnership met in Jerome on January 9th. Consideration was being given to combining with the Water Advisory Council. A meeting was scheduled in Jerome on February 2nd for the assimilation of the Verde River Basin Partnership with Yavapai County. On January 13th, she attended a meeting of the Verde Valley Realtors and gave an update of the state of the city, including financial highlights and the annexation of state trust lands. She attended the opening of Verde Valley Medical Center's Heart & Vascular Center. On January 14th, she attended the multi-modal transportation study meeting. On January 8th, she attended a Focus on Success meeting.

CALL TO THE PUBLIC

Mr. John Altizer, of 215 South Cowboy Way, stated he had resigned from the airport commissioner as of last Thursday. He expressed his disappointment that the Council did not regard his objections to the recent decisions of the commission more seriously.

INTRODUCTION OF NEW EMPLOYEES

Chief Fanning introduced three new police officers: Delton Munday, Cory Shilling, and Kristin Robertson.

Commander Stapleton introduced the volunteers of the newly formed Citizens on Patrol (C.O.P.s): Bud Henderson, Joy Henderson, Donald Newman, J.J. Silvas, Bill Tinnin, Keith Vogler, Krys Vogler, Anon Willis, and Mary Willis. There were nine total volunteers whose actions were expected to reduce costs and assist police officers in certain monitoring activities.

PRESENTATION OF A CERTIFICATE OF APPRECIATION TO FIRE MARSHAL, RICK CONTRERAS,
FOR IMPLEMENTING THE DISPLAY OF FLAGS PROJECT

Fire Marshal, Rick Contreras, was presented with a certificate of appreciation for implementing the Display of Flags project.

APPROVAL OF MINUTES—Work Session of December 9, 2008

Council Member Kirby moved to approve the minutes as presented. Council Member Elinski seconded the motion, which passed unanimously.

UNFINISHED BUSINESS

CONSIDERATION & POSSIBLE LEGAL ACTION REGARDING ORDINANCE NUMBER 537—
AMENDING THE MUNICIPAL CODE TO CHANGE THE YOUTH COMMISSION MEMBER
REQUIREMENTS; SECOND & FINAL READING

Mr. Little stated staff was recommending a change in the way the Youth Commission was composed. The request was for applications to be considered from students of public, charter or high schools or home schooled students from within or without the city limits. The most highly qualified applications should be the ones selected for the commission.

Mayor Joens stated the Council had received an e-mail letter from Mr. Frank Leupold suggesting that the Youth Commission be organized so that no more than 30 percent of its members could be non-residents of the city and that youth leadership programs be instituted. She then asked if there was any chance that all 14 members might end up being from outside the city.

Council Member Kirby stated that any such change would require re-presenting the ordinance for a new first reading.

Council Member Chapman stated if there was a concern in the future, the matter could be discussed at that time.

Mayor Joens stated the change that concerned her most was with home schoolers. Formerly, members either lived here, or went to school here. Now they need not have any connection with the city.

Council Member Chapman asked how many home schooled students applied to be on the commission.

Mr. Little stated the most there had been for any one annual selection process had been two.

Mayor Joens stated her agreement with the need for youth leadership programs. She asked if a program to teach youth leadership had been developed.

Mr. Little stated that was what the commission did for its members.

Mayor Joens asked about a program outside the commission where they might teach leadership to others.

Council Member Kirby stated the schools already had such programs.

Vice Mayor Pfeifer stated the older commission members mentor the younger ones. That was the way the commission taught leadership.

Mayor Joens asked if any members of the public wished to speak regarding this matter. No one asked to speak.

Council Member Kirby moved to adopt Ordinance Number 537. Vice Mayor Pfeifer seconded the motion, which passed unanimously.

Mayor Joens asked the City Clerk to read Ordinance Number 537 by title only.

ORDINANCE NUMBER 537

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING TITLE 2, ADMINISTRATION AND PERSONNEL, CHAPTER 2.92 YOUTH COMMISSION, OF THE MUNICIPAL CODE OF THE CITY OF COTTONWOOD; BY AMENDING SECTION 2.42.040, A., MEMBERSHIP.

CONSENT AGENDA—The following items are considered to be routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Council Member or a citizen so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

APPROVAL OF PAY APPLICATION NUMBER 3 FOR THE AIRFIELD ELECTRICAL UPGRADE PROJECT AT THE COTTONWOOD MUNICIPAL AIRPORT

APPROVAL OF CHANGE ORDER NUMBER 1 TO THE ADOLFSON & PETERSON CONTRACT FOR THE COTTONWOOD RECREATION CENTER PROJECT

Mayor Joens asked if any Council Member or member of the public wished to have an item pulled for discussion. No one expressed a wish to do so.

Council Member Elinski moved to approve the consent agenda. Vice Mayor Pfeifer seconded the motion, which passed unanimously.

NEW BUSINESS—The following items are for Council discussion, consideration, and possible legal action.

RESOLUTION NUMBER 2521--APPOINTING THE INITIAL MEMBERS OF THE CITY'S JUDICIAL REVIEW AND APPOINTMENTS ADVISORY BOARD

Ms. Dobler stated staff requested the appointment of seven volunteer members for the newly created Judicial Review and Appointment Advisory Board. Of those seven, three shall be active members of the Arizona State Bar Association who reside or practice in Yavapai County. Five applications had been received. Also, three members shall be from the general public, reside in the City of Cottonwood, and have distinguished themselves through their public service, impartiality, and objectivity. Seven applications had been received. The seventh member shall be the presiding judge or a designee of the Arizona Superior Court for Yavapai County. Arizona Superior Court Judge Brutinel had designated Deborah Schaefer as his representative to serve on this board.

Mayor Joens stated members would have responsibilities immediately and would be working under a deadline in order to hire a city magistrate.

The applicants introduced themselves and three questions were asked of each of the applicants present from the legal profession.

Vice Mayor Pfeifer moved that William Fischbach is hereby appointed a member of the Judicial Review and Appointments Advisory Board, as an active member of the Arizona State Bar Association, to serve a 1-year term beginning January 22, 2009, and ending January 22, 2010. The motion was seconded by Mayor Joens, and passed unanimously.

Council Member Norman moved that Shiloh Hoggard is hereby appointed a member of the Judicial Review and Appointments Advisory Board, as an active member of the Arizona State Bar Association, to serve a 2-year term beginning January 22, 2009, and ending January 22, 2011. The motion was seconded by Council Member Elinski and passed unanimously.

Vice Mayor Pfeifer moved that Justin Vaughn is hereby appointed a member of the Judicial Review and Appointments Advisory Board, as an active member of the Arizona State Bar Association, to serve a 3-year term beginning January 22, 2009, and ending January 22, 2012. The motion was seconded by Council Member Norman, and passed unanimously.

Mayor Joens asked if Ms. Deborah Schaefer wished to speak.

Ms. Schaefer, Administrator of the Superior Court, stated Judge Brutinel regretted not being able to serve personally on this board. He had asked her to be his representative.

Applicants introduced themselves and three questions were asked of each of the applicants present seeking to be members from the general public. During this time Mr. Garrison asked why board meetings were not held in executive session.

Mr. Horton stated the open meeting law required that any advisory committee to the Council convened as a public body and must have proper notices and agendas, and follow the open

meeting law even in personnel matters. There would be an opportunity to have executive session, as a discretionary act, subject to the notice requirements to an employee and the employee's opportunity to insist on a public discussion instead of one in executive session.

Mayor Joens asked if any applicants or members of the public had questions about the position. No one did.

Council Member Kirby moved to appoint Randall Garrison for the one year term. Council Member Elinski seconded the motion, which passed unanimously.

Vice Mayor Pfeifer, for the two-year term, moved to appoint Donna Castillo. Mayor Joens seconded the motion, which passed unanimously.

Council Member Elinski moved to appoint Robert Oliphant to the three year term. Council Member Kirby seconded the motion, which passed unanimously.

Council Member Kirby moved to adopt Resolution Number 2421, inserting the names of those nominated and approved. The motion was seconded by Council Member Norman, and passed unanimously.

Mayor Joens asked the City Clerk to read Resolution Number 2421 by title only, inserting the names of the positions chosen by the Council.

RESOLUTION NUMBER 2421

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPOINTING THE INITIAL MEMBERS OF THE CITY'S JUDICIAL REVIEW AND APPOINTMENTS ADVISORY BOARD.

THAT, DEBORAH SCHAEFER IS HEREBY APPOINTED A MEMBER OF THE JUDICIAL REVIEW AND APPOINTMENTS ADVISORY BOARD, AS THE DESIGNEE OF THE PRESIDING JUDGE OF THE ARIZONA SUPERIOR COURT FOR YAVAPAI COUNTY, FOR A 1-YEAR TERM BEGINNING JANUARY 22, 2009, AND ENDING JANUARY 22, 2010.

THAT, WILLIAM FISCHBACH IS HEREBY APPOINTED A MEMBER OF THE JUDICIAL REVIEW AND APPOINTMENTS ADVISORY BOARD, AS AN ACTIVE MEMBER OF THE ARIZONA STATE BAR ASSOCIATION, TO SERVE A 1-YEAR TERM BEGINNING JANUARY 22, 2009, AND ENDING JANUARY 22, 2010.

THAT, SHILOH HOGGARD IS HEREBY APPOINTED A MEMBER OF THE JUDICIAL REVIEW AND APPOINTMENTS ADVISORY BOARD, AS AN ACTIVE MEMBER OF THE ARIZONA STATE BAR ASSOCIATION, TO SERVE A 2-YEAR TERM BEGINNING JANUARY 22, 2009, AND ENDING JANUARY 22, 2011.

THAT, JUSTIN VAUGHN IS HEREBY APPOINTED A MEMBER OF THE JUDICIAL

REVIEW AND APPOINTMENTS ADVISORY BOARD, AS AN ACTIVE MEMBER OF THE ARIZONA STATE BAR ASSOCIATION, TO SERVE A 3-YEAR TERM BEGINNING JANUARY 22, 2009, AND ENDING JANUARY 22, 2012.

THAT, RANDALL GARRISON IS HEREBY APPOINTED A MEMBER OF THE JUDICIAL REVIEW AND APPOINTMENTS ADVISORY BOARD, AS A MEMBER OF THE GENERAL PUBLIC WHO RESIDES WITHIN THE CITY OF COTTONWOOD, FOR A 1-YEAR TERM BEGINNING JANUARY 22, 2009, AND ENDING JANUARY 22, 2010.

THAT, DONNA CASTILLO IS HEREBY APPOINTED A MEMBER OF THE JUDICIAL REVIEW AND APPOINTMENTS ADVISORY BOARD, AS A MEMBER OF THE GENERAL PUBLIC WHO RESIDES WITHIN THE CITY OF COTTONWOOD, FOR A 2-YEAR TERM BEGINNING JANUARY 22, 2009, AND ENDING JANUARY 22, 2011.

THAT, ROBERT OLIPHANT IS HEREBY APPOINTED A MEMBER OF THE JUDICIAL REVIEW AND APPOINTMENTS ADVISORY BOARD, AS A MEMBER OF THE GENERAL PUBLIC WHO RESIDES WITHIN THE CITY OF COTTONWOOD, FOR A 3-YEAR TERM BEGINNING JANUARY 22, 2009, AND ENDING JANUARY 22, 2012.

ADMINISTRATION OF OATH OF OFFICE TO APPOINTED JUDICIAL REVIEW AND APPOINTMENTS ADVISORY BOARD

Ms. Jiménez administered the Oath of Office to the newly appointed members of the Judicial Review and Appointments Advisory Board.

RESOLUTION NUMBER 2422—APPOINTING RICHARD SERDEN AS INTERIM MAGISTRATE

Mr. Bartosh stated Resolution 2258 stated the current magistrate's appointment expired January 23, 2009. A recommendation for a replacement would not be possible for at least 30 days. Staff requested that an interim magistrate position be appointed until a new magistrate could be appointed. The current magistrate, Richard Serden, had stated his willingness to serve as the interim magistrate.

Mayor Joens asked Judge Serden if he wished to make any statement.

Judge Serden stated he was willing to serve until the position of city magistrate was filled with the stipulation he be given at least 30 days notice of termination.

Mayor Joens stated that, if approved, the interim appointment would allow Judge Serden to retain the same pay and benefits he currently had. She asked if any member of the public had any comments. No one did.

Vice Mayor Pfeifer moved to appoint Judge Richard Serden interim magistrate for the period

of time between the expiration of the current city magistrate appointment and the appointment of a new city magistrate. Mayor Joens seconded the motion, which passed unanimously.

Judge Serden stated he would have to retake the Oath of Office and the City Clerk had indicated that could be done later during regular business hours.

Mayor Joens asked the City Clerk to read Resolution Number 2422 by title only.

RESOLUTION NUMBER 2422

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPOINTING RICHARD SERDEN AS INTERIM MAGISTRATE AND ESTABLISHING HIS TERM OF OFFICE.

CONSIDERATION OF PURCHASING A FACILITY TO HOUSE THE WATER UTILITY DEPARTMENT

Mr. Bartosh stated that parties had reached an agreement and no executive session would be needed regarding this property purchase. The process began because the lease on the facility currently occupied by the utility department would soon expire. That building was smaller than what was needed. Staff determined it would be in the best interest of citizens to purchase a property rather than continue to lease. The old Foxworth-Galbraith property had been listed for sale with an asking price of \$850,000. It was determined it would suit the department's needs and the Council previously authorized negotiations for it to commence. An appraisal was determined at \$650,000 which is the price agreed upon with the representatives of the property. Staff requested Council's approval of the agreed upon price so that an escrow agreement may be drawn up. A Phase I environmental study was being conducted to ensure no hazardous residue was left behind at the site.

Mayor Joens gave direction, with the concurrence of the Council, to move forward with the purchase of the building and bring back the necessary authorizations to the Council.

CONSIDERATION OF APPROVAL OF PAY REQUEST NUMBER 6 FOR THE WILLARD STREET EXTENSION PROJECT AND UPDATE ON THE PROJECT

Mr. Scott, the project manager, stated this street improvement from the end of Monte Tessoro to the intersection of Cottonwood Street and Willard Street was designed to relieve traffic on Sixth Street. It was begun in July after a bid awarded to Arizona Earthmovers had been approved. The road was not yet open because the city's responsibility was only for part of the road construction. The northern 1,000 feet of the road was the responsibility of the developer of Cottonwood Business Park. Their plans are to pave within a month. The road could open as early as the end of February. Curbs, gutters, and sidewalks are nearly completed in the subdivision which allows paving to proceed.

Mayor Joens asked if he was confident that the deadline could be met, weather permitting.

Mr. Scott stated yes. Temperatures did have to be right for paving to proceed: 60 degrees and rising.

Council Member Norman moved to approve pay request number 6 for the Willard Street extension project. Council Member Kirby seconded the motion, which passed unanimously.

CONFIRMATION OF ACCEPTANCE OF THE STAFFING FOR ADEQUATE FIRE & EMERGENCY RESPONSE (S.A.F.E.R.) GRANT

Chief Casson stated this item was a follow-up to one presented in last week's Council work session. Staff requested affirmation that, if awarded, the Council would accept the S.A.F.E.R. grant to hire 12 additional full-time firefighters and also acknowledge the city's awareness of its obligations and long term commitment of accepting the grant. The S.A.F.E.R. grant was a federal grant offered by the Department of Homeland Security to ensure adequate staffing of first responders. The amount offered Cottonwood was \$1.3 million to help the city fully staff a second fire engine company. The costs were a partnership of the city with the federal government who pay the grant funds over a period of four years, with a substantial portion of it being paid in the first year. The percentage paid by the federal government decreased over four years. In the fifth year, the city would assume all the staffing costs. Acceptance by the Council would result in notification to the federal government, who would then, in due course, award the grant. Once officially awarded, the city would have 90 days to hire 12 new firefighters, at which time grant payments would start. In the first year, the federal government would pay \$468,000 with the city contributing an additional \$211,000. The total first year cost would be approximately \$680,000. In the second year, the cost to the city increased by approximately \$100,000, with total costs of approximately \$727,000. That amount was based on an estimated cost of \$56,600 per year, for each staff firefighter position, including payroll, and payroll related benefit costs. The need for the second engine company has been apparent for over 15 years. Last year, the city's only engine company responded to over 2,478 calls. Lately, there had been increased incidents of multiple call-outs, with up to four calls in a fifteen minute period, requiring the assistance of neighboring agencies. Response times were increasing for paramedic and fire incidents where fast response was critical. Training time had diminished because of the work load. Incident turn-around time was approximately 60-75 minutes. OSHA regulations required 32 hours of training a year. The Insurance Services Office (ISO) which rated the fire department and determined the insurance rates for homeowners required 262-274 hours of training annually. The city now had big box stores and a hospital with four stories which, along with Cottonwood Village, could involve the evacuation of a large number of elderly or disabled people, risks which the city has not had to deal with until now. We are the busiest engine company in the Sedona-Verde Valley area, if not the county. Sedona had five engines and 25 people, responding to 3,700 calls last year. Their budget was \$16 million and their cost per call, approximately \$4,300. We had one engine with 4 staff on duty handling 2,478 calls, which is 5 times the number of calls per firefighter than Sedona. Our cost per call was \$755. Our costs are the lowest of all local agencies. Should the grant be accepted and a second engine company formed, the cost per firefighter would be cut in half, but would still be higher than any neighboring agency. With a budget increased to \$2.2 million, it would still be less than half

of other agencies. City services would always be less than that of a special district because of the city's shared administrative costs. Service was maximized now, and further growth was expected. Volunteer firefighters were becoming harder to acquire and retain. Overtime could be reduced with related cost savings. Future opportunities for federal funding may not be available. Acceptance of this grant would give priority consideration for future grants to assist the acquisition of equipment and training. Retaining the current ISO rating would result in cost savings to all residents of the city.

Mayor Joens asked for public comments. No one expressed a wish to speak.

Mr. Bartosh stated that with regard to the financial aspects of this grant, there were certain risks involved. The city was budgeted for it and had the spending authority as well as reserves, if needed. The grant represented an opportunity the city could not afford to pass up.

Council Member Kirby asked what the results were of the 0.8% sales tax increase.

Mr. Bartosh stated results would be available some time in February from the State.

Mayor Joens stated hiring 12 people in 90 days was going to be difficult. She asked if there was a qualified pool of applicants available.

Chief Casson stated there would be no shortage of qualified applicants from volunteers and staff from other agencies.

Council Member Kirby moved to proceed with the S.A.F.E.R. grant. Council Member Elinski seconded the motion, which passed unanimously.

Mayor Joens directed staff to move forward with the grant.

Chief Casson stated he would immediately notify the Department of Homeland Security that Cottonwood was interested in the grant and that the Council was aware of its long term obligations and was committed to implement them to the best of its abilities.

Mr. Horton stated the Department of Homeland Security wished to see a specific commitment from the Council that it understood and was committed to funding that engine company from year five, in perpetuity.

Mayor Joens asked if a letter was needed to that effect.

Mr. Horton stated no, but the Council must understand that that was what the chief took its vote to be.

Chief Casson stated the recommendation specific to their question was, once officially accepted and awarded, the Council acknowledged the long term commitment and obligations of accepting the grant.

Mayor Joens stated the Council was committed to that plan.

APPROVAL OF FINAL PLAT FOR COPPERGATE BUSINESS PARK

Mr. Gehlert stated approval was asked for the final plat of an industrial subdivision located on North Black Hills Drive, west of State Route 89A. It was approximately 16 acres of undeveloped land. The Council adopted a preliminary plat in 2006. There had since been a redesign of it into smaller parcels. One other change would allow, with ADOT approval, access from State Route 89A between two existing roundabouts. Staff recommended approval of this request subject to the following stipulations: (1) Development in conformance with the letter of intent, dated 11/20/08; and with the preliminary plat, seal dated 11/12/08, as may be further modified by the Commission or City Council; (2) That all Code Review comments from 12/2/08 meeting be addressed; (3) That adult uses be restricted from the rear 500 feet of the property, as required by code. Conditional Use Permit approval would be required for such use among the remainder of the property; (4) That the drainage report, grading, paving, drainage, and construction plans be approved by Public Works, prior to review by the City Council; (5) That Alamos Drive be dedicated with full improvements provided to the north property boundary, as part of the recording; (6) That a non-access easement be dedicated along the 89A frontage with the exception of the potential access for Coppergate Drive; (7) That a screen wall be required with the development of lot 8, subject to the Design Review process; (8) That the applicant submit a dust control plan, for approval by Public Works; (9) That the applicant address all Public Works comments pertaining to grading and drainage prior to review of the Final Plat by the City Council. Any significant changes to the plat shall first be referred back to the P&Z Commission; (10) That the final plat may not be recorded until the new access onto 89A (Coppergate Drive) is approved by ADOT; (11) That the cost estimates and financial assurances are reviewed and approved by the City Engineer, City Attorney, and City Council, prior to recording; (12) That an architectural concept be reviewed and approved by DRB and incorporated into the deed restrictions prior to recording; (13) Anything else the Commission deems necessary.

Mayor Joens asked how things would be handled if the Design Review Board (DRB) was done away with.

Mr. Horton stated he read it to be the folding of the DRB into any blended body the Council may create and it was okay the way it was stated.

Mayor Joens asked if a trails easement could be added as a stipulation and whether it was necessary to stipulate no potable water be used for dust control.

Mr. Bartosh stated city ordinances required reclaimed water be used for dust control.

Mr. Gehlert stated the subject of trails through the wash had come up with the Planning & Zoning Commission but they had not made it a stipulation.

Council Member Elinski stated it appeared the plans called for the wash to be filled in.

Mr. Gehlert stated the prior approval demonstrated tight culverting in the wash, and it was very channelized.

Mr. Pender, the developer, stated it was called the Downtown Wash. The new entrance on the highway was to relieve traffic on local streets. The two front parcels were about one acre with the idea that a convenience store or gas station/convenience store would go in. The largest lot in back was designed for a single entity with industrial capabilities. The western boundary was one between residential and industrial zones. Eventually a screen wall would be erected but for the time being it would be best to leave the existing mesquite trees there. There is no opposition to a trail but access was difficult because of wash stabilization. Sidewalks would be built right to where a wash trail would come out on the highway. The lot frontages would have curb, gutter, and 6 foot wide sidewalks.

Mayor Joens stated the trail would simply end up in a housing development. She asked where it could connect in a more beneficial manner to the public.

Mr. Pender stated there was a way to bring it to Alamos which would bring people to Black Hills and Cottonwood Ranch.

Mayor Joens stated if the other two properties could have a trails easement, the path could be circular. She asked if a trails easement could still be obtained, and about the feasibility of trails on these properties.

Mr. Scully stated some of the culverts were ten feet and extended. Some were planned to be capable of walking horses through them.

Mr. Pender stated the only obstacle would be energy dissipaters, such as large rocks, placed downstream which could impede passage. It might be possible to find alternatives. The trail could be brought up onto the bank. When the properties were developed, plans would be submitted for approval and trails could be planned for at that time.

Council Member Elinski moved to approve the final plat for the Coppergate Business Park, with the stipulations from the Planning & Zoning meeting of 12/15/08 and making sure there is an easement for the trail, as discussed. Council Member Norman seconded the motion, which passed unanimously.

APPROVAL OF AN AMENDMENT TO THE FINAL SITE PLAN FOR THE FRY'S SHOPPING PLAZA PAD TO ADD A FUELING FACILITY TO THE PARKING AREA

Mr. Gehlert stated this was a request for an amendment of the Planned Area Development (PAD) at Fry's Shopping Plaza. It was a zoning action to establish a 7-pump fueling facility at this location. An issue besides fuel at this location was the traffic impact, which was regarded as a major amendment to the site plan for the PAD. This required review by the Planning & Zoning Commission and the City Council. Traffic flow in the parking lot and

possibility of lights on the elevated location causing a distraction on Highway 260 were concerns to be addressed. The lighting system consisted of spotlights and flush mounted canopy lights. Recommendation was for appropriate shielding. Another concern was the placement of a bus shelter requested by C.A.T. Fry's had been requested to offset the cost of the shelter. An exact location for it had not been determined. The estimated cost was approximately \$7,650, depending on where it was to be placed. Staff recommended approval of this project together with the following stipulations: (1) That the development conform to the site plan dated 11/6/08 and the undated letter of intent provided in the packet; as may be further modified by the Council; (2) That all Code Review comments from the meeting of 5/6/08 be addressed, including comments regarding surfacing requirements, curb cuts, submittal of a drainage study, and any additional info as may be required; (3) The applicant submit a letter acknowledging and agreeing to possible future placement of a "pork chop" style (right in, left out) traffic control improvement to the Fry's driveway access at SR 260; (4) That the applicant work with staff to address issues relating to canopy lighting, landscaping, and traffic control; (5) That the applicant cover the cost of a new bus shelter and connective walkway (approx. \$7,000). Final design, placement, and cost to be determined by CAT. (6) That the applicant submit separate permit applications for all signs.

Council Member Elinski asked why we would require the applicant to cover the cost of the bus shelter.

Mr. Gehlert stated their request was for a zoning action. Our request was to mitigate some of the impact the extra traffic would bring.

Council Member Chapman asked if there would be safety issues mixing pedestrian traffic to the shelter with auto traffic in the parking lot.

Mr. Gehlert stated this was one reason why a final location for the shelter had not been selected. There was currently curbside pick up around the plaza, but it was hoped to get away from that.

Mr. Scott stated the curbside pickup now available was only for special handicap permits supplied through a federal program. That would not be discontinued. C.A.T. would permit the shelter at the far end of the parking lot to lower the risk of accidents. Several other options were presented. The closer it would be to the store, the more traffic safety improvements would have to be made.

Mayor Joens stated developers often helped provide amenities as the price of doing business in the city, and supported them accommodating the city's transit system.

Ms. Elizabeth Ohep, Fry's project manager and representative, stated the understanding with C.A.T. was that the bus stop would be apart from the fueling station and that communication would continue to best address this issue. While the stop was outside their property, agreement must be reached with the shopping center for any changes. The price for the shelter would be negotiated with C.A.T.

Mayor Joens asked Mr. Gehlert if he agreed that the stipulation wording should be kept that stated "That the applicant cover the cost of a new bus shelter and connective walkway (approx. \$7,000). Final design, placement, and cost to be determined by CAT."

Mr. Gehlert stated the exact amount of the contribution was to be determined by the Council, as would the cost of any site work.

Ms. Ohep stated that the entire shopping center would be using the shelter and all parties should participate in dealing with the bus shelter.

Mr. Scott stated the \$7,000 was an approximated cost. It did not include a concrete pad. If Fry's were to require an easement, a survey would be necessary, the cost of which had not been included in this estimate.

Consensus was that a bus stop should be included as part of the project.

Mr. Horton stated that when passed, one of the legal stipulations would be that the shelter had to be included. If Fry's wished to negotiate with other tenants of the association, they were at liberty to do so. The stipulation required the shelter. It would clarify the issue to eliminate the estimated dollar amount of it.

Mr. Gehlert asked if it would be sufficient to have a letter from Fry's agreeing to have the bus stop and the shelter in their parking lot or would a survey and easement be required.

Mr. Horton stated the level of documentation necessary would have to be determined by C.A.T.

Mayor Joens moved for approval of an amendment to the final site plan for the Fry's Shopping Plaza PAD to add a fueling facility to the parking area with the 6 stipulations, less the amount of \$7,000. Vice Mayor Pfeifer seconded the motion, which passed unanimously.

ORDINANCE NUMBER 530--AMENDING TITLE 9, PUBLIC PEACE, MORALS AND WELFARE, CHAPTER 9.08 OFFENSES AGAINST PROPERTY, OF THE MUNICIPAL CODE BY ADDING A NEW SECTION 9.08.080, DEFACEMENT OF PROPERTY, AND SECTION 9.08.090 REMOVAL OF GRAFFITI; FIRST READING

Mr. Scully stated this would be the first reading to amend the municipal code by adding sections for actions regarding applying graffiti and possession of implements for applying graffiti. It prescribed penalties for the application of graffiti or the possession of implements to do so. There would be a section addressing the removal of graffiti and whose responsibility that would be. The Code was missing a straight forward statement that this condition was not permitted and who was to remove graffiti and when.

Council Member Elinski stated the ordinance permitted the city to remove graffiti on private

property. He asked if the city would bill the property owner.

Mr. Scully stated the Code already had sections addressing nuisance abatement. As a last resort, if a property owner was uncooperative, he could be billed.

Mr. Bartosh stated it was important to have such an ordinance to be able to get graffiti removed as soon as possible.

Mayor Joens stated doing so would keep the city clean, prevent crime, and discourage the addition of more graffiti. She asked the City Clerk to read Ordinance Number 530 by title only. She asked the City Clerk to read Ordinance Number 530 by title only.

ORDINANCE NUMBER 530

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING TITLE 9, PUBLIC PEACE, MORALS AND WELFARE, CHAPTER 9.08 OFFENSES AGAINST PROPERTY, OF THE MUNICIPAL CODE BY ADDING A NEW SECTION 9.08.080, DEFACEMENT OF PROPERTY, AND SECTION 9.08.090 REMOVAL OF GRAFFITI.

ORDINANCE NUMBER 538--AMENDING ARTICLE II, DEFINITIONS, SECTION 201., GENERAL, OF THE CITY OF COTTONWOOD ZONING ORDINANCE BY ADDING THE NEW DEFINITIONS OF "CAMP" AND "CAMPING", UNDER ARTICLE II, DEFINITIONS, SECTION 201., GENERAL, AND AMENDING ARTICLE IV, ZONING DISTRICTS, SECTION 404., GENERAL PROVISIONS, BY ADDING A NEW SUBSECTION X., "CAMPING WITHIN THE CITY LIMITS" TO SECTION 404., GENERAL PROVISIONS; FIRST READING

Mr. Scully stated this ordinance and the next were related. Ordinance Number 538 added a section regarding camping on private property while Ordinance Number 539 was oriented to camping on public property. There were no clear provisions for addressing this activity. Use would be prohibited unless specifically authorized and only in places where it was specifically allowed. It had provisions for allowing temporary guests, with consent, on private property, such as in an RV. It also permitted backyard camping temporarily. The concern over camping in commercial parking lots such as Wal-Mart's was addressed.

Mayor Joens stated she liked the proposed ordinance and agreed with the exceptions it permitted.

Chief Fanning stated there was no way without such an ordinance that the police could deal with homeless people in culverts and other areas who started fires and left trash. This ordinance would allow removal of people from these areas.

Mayor Joens stated the city had housing facilities for the homeless.

Chief Fanning stated his department's policy would be to inform such people of the

ordinance and urge them to seek alternative accommodations or face enforcement action. Warnings would be given prior to action being taken.

Council Member Elinski stated he objected to the terminology of "camping". It appeared to be a measure aimed against the homeless, and should be addressed as such.

Mayor Joens stated citizens were frightened because these activities were allowed. The greater good must be taken into consideration. This city did have accommodations for the homeless.

Council Member Elinski stated he was not opposed to what was trying to be accomplished but the manner in which it was being done.

Council Member Kirby stated that was only one issue. There was also the issue of people staying in their RVs and trailers in driveways, parking lots, and on the street.

Mayor Joens asked the City Clerk to read Ordinance Number 538 by title only.

ORDINANCE NUMBER 538

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, AMENDING ARTICLE II, DEFINITIONS, SECTION 201., GENERAL, OF THE CITY OF COTTONWOOD ZONING ORDINANCE BY ADDING THE NEW DEFINITIONS OF "CAMP" AND "CAMPING", UNDER ARTICLE II, DEFINITIONS, SECTION 201., GENERAL, AND AMENDING ARTICLE IV, ZONING DISTRICTS, SECTION 404., GENERAL PROVISIONS, BY ADDING A NEW SUBSECTION X., "CAMPING WITHIN THE CITY LIMITS" TO SECTION 404., GENERAL PROVISIONS.

ORDINANCE NUMBER 539--AMENDING THE MUNICIPAL CODE OF THE CITY OF COTTONWOOD BY ADDING A NEW CHAPTER 8.48, CAMPING WITHIN CITY LIMITS, TO TITLE 8, HEALTH AND SAFETY; FIRST READING

Mr. Scully stated this ordinance would amend the Municipal Code and included the section about camping on public property and restrict camping unless authorized.

Mayor Joens stated it was a health and safety issue, and asked the City Clerk to read Ordinance Number 539 by title only.

ORDINANCE NUMBER 539

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, AMENDING THE MUNICIPAL CODE OF THE CITY OF COTTONWOOD BY ADDING A NEW CHAPTER 8.48, CAMPING WITHIN CITY LIMITS, TO TITLE 8, HEALTH AND SAFETY.

CONTINUATION OF UTILIZING THE LAW FIRM OF MANGUM, WALL, STOOPS & WARDEN (ON AN EMERGENCY BASIS) FOR THE CITY'S PROSECUTION SERVICES

Mr. Bartosh noted that Mr. Horton stepped down having declared a conflict of interest. The city has been involved in a lawsuit with former city prosecutor Dennis Bayless, who filed suit to have the court void the city's contract with Mangum, Wall, Stoops & Warden, P.L.L.C. The court ruled in favor of Mr. Bayless. That decision had been appealed and a stay requested. In the interim, the city needed a prosecutor.

Mayor Joens moved to continue utilizing the law firm of Mangum, Wall, Stoops and Warden for the city's prosecution services, and declared the motion an emergency. The motion was seconded by Council Member Norman, and passed unanimously.

CLAIMS & ADJUSTMENTS

Council Member Kirby moved to pay the claims and adjustments. Council Member Norman seconded the motion, which passed unanimously.

ADJOURNMENT

The Mayor adjourned the regular meeting at 10:00.

Diane Joens, Mayor

Marianne Jiménez, City Clerk

CERTIFICATION OF MINUTES

I hereby certify that the attached is a true and correct copy of the minutes of a regular meeting of the City Council of the City of Cottonwood held on January 20, 2009. I further certify that the meeting was duly called, and that a quorum was present.

Marianne Jiménez, City Clerk

Date